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TRADE AND PROPERTY RIGHTS IN WAR TIME¹

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Ex-Governor of Connecticut

THIS conference has had a busy week. It discussed at Long Beach, under the leadership of Justice Hughes and President Butler, the general subject of the future of international law, and of the appeal to law as contrasted with an appeal to war. It followed this by a consideration of the relations of our government to other governments; and now it has come back to the great center of American commerce to talk of international complications arising from the claims of individuals against governments, touching property rights, trade licenses, investments and concessions. Such complications are often the father of war; always the children of war.

Frequent reference has been made at this conference to the success of the experiment of uniting in a federal congress in 1781 all the self-governing democracies then existing in America. The Continental Congress also did something more for the country than to provide machinery for its own good government. Through Jefferson and Franklin it early took a long step forward in the regulation of our foreign relations in time of war. It declared the policy of the United States to be to make war injure the interests of private individuals as little as possible. It negotiated one treaty, founded on that principle, which is still in force. That was our treaty with Prussia in 1785, the last great work of Benjamin Franklin. As it came from his hands committed to the doctrine of "free ships, free goods," it was the most liberal and advanced treaty between nations for the regulation of their trade relations, known up to that time in the history of diplomacy. Germany, as the successor of Prussia, has not disputed that it controls her relations with us at the present juncture.

¹ Introductory remarks as presiding officer at the session of June 1.

One of its provisions, renewed in 1799 and again in 1828, is this :

If war should arise between the two contracting parties, merchants of either country then residing in the other shall be allowed to remain nine months to collect their debts and settle their affairs, and may depart freely, carrying off all their effects without molestation or hindrance; and all women, and children, scholars of every faculty, cultivators of the earth, artisans, manufacturers, and fishermen, unarmed and inhabiting unfortified towns, villages or places; and in general all others, whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, and shall not be molested in their persons, nor shall their houses or goods be burned or otherwise destroyed, nor their fields wasted by the armed force of the enemy, into whose power by the events of war they may happen to fall; but if anything is necessary to be taken from them for the use of such armed force, the same shall be paid for at a reasonable price.

As the Treaty of 1828 has not yet, I believe, been denounced, these provisions may not improbably be the subject of much diplomatic discussion when we are again at peace.

The changes in foreign investments here during the past three years have been enormous. There have been large voluntary sales; there have been more forced appropriations of one kind or another of the property of enemy's subjects, by and for the government at war with their sovereign. Out of such events and out of concessions to foreigners which have been impaired or revoked must come in the future many claims for pecuniary compensation. The discussion of the general subject is to occupy our closing session.